

AN ORDINANCE NO. 13.4

Adopting a Declaration of Covenants and Restrictions for Champion City Business Park, applicable to the Champion City Business park subdivision plat, and authorizing the City Manager, City Engineer and Law Director to do all things necessary to cause the Declaration of Covenants and Restrictions to be recorded with the Clark County Recorder's Office.

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BE IT ORDAINED by the City Commission of The City of Springfield, Ohio:

Section 1. Champion City Business Park is described as follows:

Situated in the State of Ohio, County of Clark, City of Springfield, and Being a part of section 23 and section 24, township 5, range 9, between the Miami River Survey; being further described as follows -

Being a subdivision of 32.146 acres and being all the land contained within boundaries shown as lots 1 through 3, reserve, and McGregor's Way, and being part of the land conveyed to the City of Springfield, Ohio by deed from International Truck and Engine Corporation, dated July 18, 2007 and recorded in official record 1822 page 1798, Parcel II, deed records of Clark County, Ohio.

Section 2. That the Declaration of Covenants and Restrictions for Champion City Business Park, a copy of which is attached hereto, is hereby approved.

Section 3. That the City Manager, City Engineer and Law Director are hereby authorized to do all things they deem necessary to accomplish the proper recording of the Champion City Business Park Plat and related Declaration of Covenants and Restrictions for Champion City Business Park.

Section 4. That this Ordinance shall take effect and be in force from and after fourteen (14) days from the date of its passage.

PASSED this 8th day of January, A.D., 2013.

Warren R. Copeland
PRESIDENT OF THE CITY COMMISSION

Corinne J. Chappell
CLERK OF THE CITY COMMISSION

(Published: Springfield News-Sun

Mon Jan 14, 2013)

I do hereby certify that the foregoing Ordinance No. 13-4 was duly
published in the Springfield News-Sun on Monday, January 14,
2013.

Connie Chappelle
CLERK OF THE CITY COMMISSION

DECLARATION OF COVENANTS AND RESTRICTIONS FOR CHAMPION CITY BUSINESS PARK

THIS DECLARATION is made as of _____, 20__, by THE CITY OF SPRINGFIELD, OHIO, an Ohio municipal corporation, (hereinafter called "Declarant") under the following circumstances:

- A. Declarant is the fee simple owner of the following described property located in the City of Springfield, Clark County, State of Ohio (the "Property"):

(Description of Champion City Business Park Plat)

- B. Declarant desires to submit the Property to certain covenants, restrictions and easements as set forth in this Declaration.

NOW, THEREFORE, Declarant declares that all of the Property shall be held, developed, encumbered, leased, occupied, improved, built upon, used and conveyed subject to this Declaration.

SECTION 1. DEFINITIONS.

For purposes of this Declaration, unless the context otherwise requires, the words listed in this Section shall have the following meanings:

- 1.1 **City Manager:** The City Manager of The City of Springfield, Ohio.
- 1.2 **Covenants and Restrictions:** The covenants, conditions, restrictions, reservations and easements stated in this Declaration, as amended from time to time.

- 1.3 **Declaration:** This Declaration of Covenants and Restrictions for the Champion City Business Park, amended from time to time.
- 1.4 **Effective Date:** Date of recording this Declaration in the Clark County Recorder's Office.
- 1.5 **Improvements:** All buildings, outbuildings and garages; overhead, above ground and underground installations, including, but not limited to, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; pools and fountains; slope alterations; roads, driveways, parking areas and other paved areas; loading docks; storage facilities; fences, trellises, walls, retaining walls and exterior stairs; planted trees, hedges, shrubs and other forms of landscaping which are more than 3 feet high when fully grown; and all other structures of every type.
- 1.6 **Lot:** Each separately-described parcel of land shown on the final plat for the Champion City Business Park, and each separately-described parcel of land split out of a parcel of land shown on the final plat for the Champion City Business Park.
- 1.7 **Owner:** Any person holding a freehold interest of record to any Lot, including any person selling that interest by land contract, but excluding any person holding an interest merely as security for the performance of an obligation.
- 1.8 **Person:** Any individual, firm, trust, partnership, business trust, limited liability company or other business entity, estate, association, society, corporation, sovereign government, political subdivision or government agency.

SECTION 2. PURPOSES.

The Covenants and Restrictions are declared to be in furtherance of the following purposes:

- 2.1 The compliance with all zoning and similar governmental regulations.
- 2.2 The promotion of health, safety and welfare of all Owners and occupants of the Property.
- 2.3 The preservation, beautification and maintenance of the Property and all improvements thereon.

- 2.4 The preservation and promotion of environmental quality.
- 2.5 The establishment of requirements for the development of the Property relating to its use, architectural features and site planning.

SECTION 3. APPROVAL OF PLANS.

3.1 Before any work may commence for the construction, erection, placing, installation, or alteration of any Improvement on any Lot, the Owner of that Lot must submit to the City Manager for review a complete set of building or installation plans and specifications for the Improvement including, without limitation, the plot layout; complete building design and specification details with elevations and floor plans; all exterior elevations with proposed materials and colors; grading, surface drainage and drainage swale plans; screening, fencing and landscaping plans; driveway curb widths and locations; a traffic engineering analysis showing traffic flow patterns and all driveways, driveway intersections with streets, parking areas, loading areas, storage areas, and sidewalks; an estimate of the maximum number of employees contemplated for the operations to be conducted from the proposed Improvements together with the hours of the shifts during which they would work; plans for all signs including location, design, color, dimensions and lighting; a plan showing any retention or detention ponds and any waste disposal areas; a description of the operations proposed to be conducted from the Improvements in sufficient detail to determine if they are permitted uses under all applicable zoning ordinances and under this Declaration including the extent of any noise, odor, glare, vibration, smoke, dust, fumes, gases, hazards of fire and/or explosion, radiation, radioactivity, toxicity of substances used, electrical radiation, liquid wastes or other performance characteristics or properties that maybe relevant under existing zoning ordinances, under any applicable environmental laws, regulations, standards, restrictions or orders or under this Declaration; any plans for the solution or containment of any problem indicated in the immediately preceding clause; any underground utility or other installations; and any overhead wiring, cables other above-ground installation plans including locations and dimensions of poles /or satellite dishes. All of such plans shall be submitted over the signature of an authorized representative of the Owner or the Owner's proposed or actual lessee who is affected by the proposed Improvements. Any changes in approved plans or specifications which materially affect building or other Improvement size, placement or external appearance must also be submitted for review by the City Manager before any such changes may be effected.

3.2 The City Manager shall approve, reject or modify such plans in a writing sent to the Owner and/or lessee in question not more than 30 days after the plans are

submitted to the City Manager. Among the factors which the City Manager shall consider are the adequacy of the Lot dimensions for the proposed Improvements; the general conformity and harmony of the proposed external design with existing neighboring structures; effect of the location and proposed use of the Improvements upon neighboring Lots, their occupants, and the operations conducted thereon; the topography, grade and ground elevation of the Lot for which the Improvements are proposed in relation to the neighboring Lots; proper facing on the main elevation of the proposed Improvements with respect to adjacent streets; the adequacy of screening for mechanical, air-conditioning, rooftop and/or other external installations which are proposed as part the Improvements; and compliance with the Development Guidelines and the provisions of this Declaration. The City Manager shall not unreasonably withhold approval any plans which conform in every way with the Development Guidelines, this Declaration and the general character of the development on neighboring Lots within the Property. If the City Manager fails to approve, disapprove or modify the plans within the above 30-day period, the City Manager's approval shall be deemed to have been given, and no further permission shall be needed before the Improvements described in such plans may be constructed or installed. However, in no event shall any Improvements be constructed or installed which violate any terms of this Declaration even if the City Manager expressly approved such construction or installation in writing unless the City Manager granted a variance in writing for such Improvements pursuant to Section 5.

3.3 No building or other Improvement shall be constructed, erected, placed, installed, permitted to remain on or altered in such a way as to put any part of the same between the setback line established under this Declaration and the boundary line of the Lot on which the building or other Improvement is located.

3.4 All Improvements on any Lot shall be started not more than one year after the date they are approved under this Section 3 and shall be completed within a reasonable time after the beginning of construction or installation.

3.5 No temporary structure shall be permitted to remain on any Lot after completion of construction on that Lot.

3.6 The City Manager may establish and require a reasonable filing fee to be submitted with each application for approval of proposed Improvements in order to defray expenses of the Declarant.

3.7 Neither Declarant, the City Manager, nor any agent of Declarant shall be liable to any applicant under Section 3, to any applicant for a variance under Section 5, or to any third party for any damage, loss or expense suffered or

claimed by such applicant or any third party on account of: (a) any in plans or specifications submitted, revised, approved or rejected in accordance the Covenants and Restrictions or for any structural or other defects in any work done according to the plans and specifications; (b) the granting, modification or denial of any application or variance request in accordance with the Covenants and Restrictions; or (c) the development of any part of the Property.

SECTION 4. PERMITTED USES; DEVELOPMENT GUIDELINES AND GENERAL RESTRICTIONS

4.1 Permitted Uses: All lawful uses permitted under applicable zoning regulations shall be permitted on the Property; provided that they do not contribute excessive noise, dust, smoke, fumes, toxic emissions or vibrations to the surrounding environment nor present any significant hazard due to the nature of the products, materials, or processes involved.

4.2 Lot Area Coverage: No more than fifty-five percent (55%) of a Lot shall be covered by buildings and similar structures. Any portion of a Lot not covered by buildings or similar structures may be covered by parking areas, loading and service areas, and driveways, provided that no more than a total of eighty percent (80%) of the Lot shall be covered by such buildings, parking areas, loading and service areas, and driveways. The remaining twenty percent (20%) of the Lot shall be devoted to landscaping, including stormwater retention and grass areas.

4.3 Building Setbacks:

4.3.1 No building or structure shall be erected within the following minimum setback areas or within utility easements.

- (a) Front yard setbacks: thirty feet (30') from any street right-of-way.
- (b) Side yard setbacks: twenty feet (20') from any side lot line.
- (c) Rear yard setbacks: thirty feet (30') from any rear lot line.
- (d) No buildings shall be constructed less than forty feet (40') from buildings or structures on adjacent sites.

4.3.2 No paved areas shall be located within the following minimum setback areas.

- (a) Front yard setback: ten feet (10') from the street right-of-way.
- (b) Side and rear yard setbacks: five feet (5') from side and rear lot lines.

4.4 Building Orientation:

- 4.4.1 Lot 1 – For any building(s) on Lot #1 that is adjacent to Belmont Ave, the structure should be oriented in such a manner that the front of each building faces Belmont Avenue.
- 4.4.2 For all other lots within the Property the primary building structure(s) shall be oriented in such a manner that the front of the building faces McGregor's Way.

4.5 Certain Improvements:

4.5.1 Curb Cuts

- (a) The location of any and all driveways and curb cuts shall be subject to the approval of the City Manager.
- (b) All access drives shall be extended to existing or proposed street pavements.

4.5.2 Off-Street Parking

- (a) Wheel stop devices, such as parking blocks or permanent curbs, shall be installed to prevent any part of a parked motor vehicle from extending beyond the paved parking area.
- (b) The surface of any parking area, aisle, driveway or maneuvering area shall be constructed of a permanent, dust- free material such as concrete or asphalt.
- (c) Any person who proposes new, expanded, or revised parking areas shall submit plans to the City Manager for approval prior to construction.
- (d) The storage of merchandise, materials, equipment, and refuse containers is prohibited in required parking areas.
- (e) The number of all required parking spaces shall be per the applicable zoning regulations.

4.5.3 Loading Area Requirements:

- (a) No loading or unloading shall be permitted on any street.
- (b) The number of all required loading spaces shall be per the applicable zoning regulations.
- (c) All off-street loading facilities shall be located on the side or rear of the building.
- (d) All loading spaces and maneuvering areas shall be located on the same Lot as the use they are intended to serve. No such area may extend beyond the lot line.
- (e) Loading spaces shall conform to the following minimum dimensions. Unless otherwise noted, all dimensions are exclusive of any driveway, aisle or other circulation area.
 - i. Clearance Heights – fourteen feet (14')
 - ii. Minimum Width – ten feet (10')
 - iii. Minimum Length – twenty-five feet (25')

4.5.4 Exterior Equipment and Storage:

- (a) During construction, all Lots shall be kept free of unsightly accumulations of rubbish and scrap, hazards, and nuisances.
- (b) All waste materials and refuse shall be stored and maintained in closed receptacles.
- (c) All exterior storage areas shall be constructed on a permanent, dust-free surface of either concrete or asphalt.
- (d) Garbage and refuse receptacles shall be concealed by means of a solid wall or fence of a minimum of six feet (6') in height.
- (e) All vehicle service and maintenance must be performed within an enclosed building located on site.

4.5.5 Landscaping:

- (a) General Requirements
 - i. All areas of a lot not improved with structures or pavement shall be finish graded and landscaped according to a landscape plan submitted to and approved by the City Manager.
 - ii. All landscaping required in the approved plan shall be installed before the issuance of a certificate of

occupancy, weather permitting.

- (b) Street Tree requirements
 - i. All Owners shall be required to plant trees approved by Declarant along the street right-of-way.
 - ii. Owner of Lot # 1 shall install street trees along the street right-of-way of both Belmont Ave. and Lagonda Ave.
 - iii. All street trees when initially planted shall be a minimum caliper of two inches (2").
 - iv. All street trees shall be located a maximum of eighty feet (80') apart.

- (c) Minimum Landscape Standards -- Intersection clearance:
To ensure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways with streets.
 - i. Street Intersections sight triangle – At street intersections, the sight triangle shall have two (2) of its sides 30 feet in length, measured along the curb lines from the point of intersection. No material shall be allowed to grow more than two and one-half feet (2.5') in height above the adjacent curb level within this sight triangle.
 - ii. Driveway Intersection sight triangle – At intersections of driveways with streets, two (2) sight triangles shall be established by measuring along the pavement edge and the street curbs ten feet (10') from their point of intersection triangles. No landscaping over two and one-half feet (2.5') in height above the adjacent driveway grade may be maintained within these sight triangles.

Within the sight triangle, landscaping shall be permitted as long as the plant material does not present a traffic visibility hazard.

- (d) Minimum Landscape Standards – Buffers:
 - i. Lot #1 shall provide a minimum four-foot (4') landscape buffer that is a minimum of three-feet in height along the rear of property adjacent to the

- pedestrian path located in reserve area.
 - ii. Lots abutting Buck Creek and the Buck Creek Bike Trail shall include a minimum four-foot (4') landscape buffer along the property line adjacent to Buck Creek and the bike trail. This landscape buffer shall include trees placed every eighty feet (80') with shrubs placed 4 foot (4') on center in between.
- (e) Landscape areas shall be properly maintained in a well-kept condition, including such replanting and replacement as is required to meet the approved landscape plan.

4.5.6 Utilities

- (a) All utilities shall be installed underground.
- (b) All transformers shall be pad mounted.
- (c) Electrical transformers and/or air conditioning equipment shall be permitted in side or rear yards but must be fully screened from view.

4.5.7 Grading

- (a) Use of excavated soil for mounding and landscaping is encouraged.
- (b) Each Lot shall be graded to provide adequate drainage facilities in keeping with the existing storm system and topography.
- (c) Once established, the drainage system may not be changed unless approved by the City Manager.

4.6 Architectural Design and Materials:

4.6.1 Building Materials

- (a) All exterior walls shall be constructed of attractive, permanent materials such as brick, pre-engineered metal walls with a minimum twenty-year manufacturer's material guarantee for color protection, decorative masonry block, poured-in-place or precast concrete units or their equivalent, as determined by the City Manager.
- (b) Accessory buildings, additions and enclosures shall be constructed in the same or compatible materials, design and

- construction as the primary/original building.
- (c) Colors, materials and finished shall be coordinated on all exterior elevations of a building to achieve total continuity of design.
- (d) All exterior surfaces shall be in predominantly warm, earth-tone colors and appearance with no major contrast between materials within a building or Lot. Corporate accent color schemes can be included. Color scheme selection shall be included for review by the City Manager at time of plan submittal.
- (e) Any utility meters or conduits which occur on the exterior of the building façade shall be painted in a color to blend with the adjacent facade.

4.6.2 Prohibited Materials – Materials specifically excluded include:

- (a) Plywood
- (b) Galvanized sheet metal walls
- (c) Residential type aluminum, steel or vinyl siding
- (d) Flush-faced concrete block

4.6.3 Temporary Structures – No structure, covering or other outbuilding of a temporary nature shall be situated, erected or maintained on any Lot within the Property; except during construction.

4.6.4 Fencing – No fence or wall shall be erected or installed without the approval of the City Manager.

4.7 Trash and Refuse Collection. All trash, garbage, refuse or other rubbish shall be deposited only in covered sanitary containers screened from the view of the nearest street and from any adjacent Lot. No garbage or refuse collection area or containers shall be permitted between the adjacent street and the building set-back line on any Lot.

SECTION 5. VARIANCES

5.1 To avoid unnecessary hardship and/or to overcome practical difficulties in the application of the provisions of the Declaration, the City Manager may grant reasonable variances from the provisions of this Declaration. No variance shall materially injure or materially adversely affect any other part of the

Property or any other Owner or occupant without the written consent of every party so injured or affected. The City Manager shall have discretion to determine what constitutes material injury and material adverse effect.

5.2 No variance granted pursuant to the authority of this Section 5 shall constitute a waiver of any provision of the Declaration as applied to any other party or any other part of the Property, and no variance may be granted to permit anything that is prohibited by applicable law.

5.3 All provisions of the Declaration not affected by the grant of a variance shall continue to apply with full force and effect to the Lot for which the variance is granted and to the balance of the Property.

5.4 The City Manager shall have the right to approve alternates to or other variations from the Development Guidelines without the necessity of granting a formal variance. Approval of plans and specifications by the City Manager containing items that do not conform to the Development Guidelines shall constitute sufficient authority to depart from the Development Guidelines.

SECTION 6. MAINTENANCE

All Lots and all Improvements placed thereon, whether occupied or unoccupied, shall at all times be maintained in good condition and repair.

SECTION 7. TELEPHONE AND ELECTRICAL SERVICE

All on-site electrical lines and telephone lines shall be placed underground. Any transformer or terminal equipment above ground shall be screened from view from the adjacent street and any adjacent Lots.

SECTION 8. EASEMENTS RESERVED BY DECLARANT

8.1 Declarant reserves for the benefit of all Owners, Declarant and occupants of Lots the easements shown on the recorded plats for the Property for the installation, use, maintenance, repair and replacement of utilities and drainage systems and facilities. No Improvement may be placed on any part of the Property which will materially impede the free and normal use of such easements.

8.2 Declarant reserves the right and easement for itself, its successors and assigns and for its contractors and licensees to enter upon the easement areas shown on the plats of the Property in order to install, maintain, repair, use and/or replace pipes, wires, antennae, cables, towers, conduits and other lines, systems and/or facilities for the purpose of providing water, sanitary sewer, storm sewer, electrical, gas, telephone, television and other utility or quasi-utility services to any part of the Property.

8.3 All easements and rights granted and/or reserved herein are easements appurtenant, running with the land which comprises a part of the Property, perpetually in full force and effect. Such easements shall at all times inure to the benefit of and be binding on Declarant, its successors and assigns, and any Owner, occupant, mortgagee or other party now or hereafter having any interest in any part of the Property.

SECTION 9. ENFORCEMENT AND REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS

9.1 Declarant and/or any Owner shall have the right to enforce the Covenants and Restrictions. Enforcement may be made by prosecuting any proceeding against the party or parties violating or attempting to violate any one or more of the Covenants and Restrictions. This right of enforcement shall include the right to recover damages and/or to seek injunctive relief to prevent the violation.

9.2 In addition to the rights stated in Section 9.1, Declarant shall have the right to enter upon any part of the Property at any reasonable time to inspect for a possible violation or breach of the Covenants and Restrictions. Where the inspection shows that a violation or breach of the Covenants and Restrictions exists, Declarant shall then have the right to abate and remove any structure, thing or condition causing such violation at the expense of the Owner of the Lot where the violation exists without any liability to such Owner for trespass or any other claim resulting from such entry.

9.3 The remedies specified in this Section 9 are cumulative and do not preclude resort to any other remedy at law or in equity by any party adversely affected by any violation or breach of the Covenants and Restrictions.

9.4 In any proceeding for the enforcement of any of the provisions of this Declaration or for the restraint of a violation of any such provision, the losing party

shall pay all of the attorney's fees and court costs of the prevailing party in such amount as may be fixed by the Court in that proceeding.

9.5 No delay or failure on the part of any aggrieved party to pursue any available remedy with respect to a violation of any of the provisions of this Declaration shall be held to be a waiver by such party of, or an estoppel of that party to assert, any right available to such party upon the recurrence or continuation of such violation or the occurrence of any different violation. No provision of this Declaration shall be construed so as to place upon Declarant or any other aggrieved party any duty to take any action to enforce this Declaration.

SECTION 10. AMENDMENTS TO DECLARATION

10.1 This Declaration may be amended for any purpose, except terminating these Covenants and Restrictions, only by recording the desired amendments executed by not less than 75% of all of the Owners and executed also by Declarant.

10.2 No amendment of this Declaration shall: (a) require any change in any pre-existing structure or other Improvement which is in compliance with the provisions of Section 3 immediately prior to the effective date of the amendment; or (b) require any change in a use complying with the provisions of Section 4 as of the date immediately preceding the effective date of the amendment, without the written consent of each party so affected or required to make any such change.

SECTION 11. DURATION

11.1 All of the Covenants and Restrictions contained in this Declaration are declared to be in furtherance of a general plan for the subdivision, improvement, sale and use of the Property. All of the Covenants and Restrictions shall run with the land and shall be binding upon and inure to the benefit of Declarant, all Owners, lessees, occupants and their respective successors in interest, unless amended pursuant to the terms of this Declaration or unless terminated pursuant to Section 11.2.

11.2 This Declaration may be terminated with respect to all of the Property by recording a written instrument providing for such termination executed by not less than 80% of the Owners and by Declarant.

SECTION 12. SEVERABILITY AND CONFORMITY TO GOVERNMENTAL REGULATIONS

12.1 If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any of the other provisions hereof. All such other provisions shall continue unimpaired in full force and effect.

12.2 If any provision of this Declaration is also the subject of any law or regulation established by any federal, state or local government, the stricter of the two standards shall prevail.

13.3 No provision of this Declaration shall be construed so as to violate any applicable zoning laws, regulations or ordinances. If any such conflict does arise, the applicable zoning laws, regulations or ordinances shall prevail.

SECTION 13. GENDER AND NUMBER

Whenever the masculine gender is used in this Declaration, it shall be deemed to include the feminine and neuter. Whenever the singular is used in this Declaration, it shall be deemed, where appropriate in the context used, to include the plural, and vice versa.

SECTION 14. PROTECTION OF COVENANTS AND RESTRICTIONS.

All deeds, leases and other instruments conveying any right to use or occupancy of a Lot shall contain a specific reference to this Declaration and shall obligate the grantee to abide by the provisions of this Declaration.

Signed this _____, 2012 by James A. Bodenmiller, City Manager, the authorized representative of Declarant.

THE CITY OF SPRINGFIELD, OHIO

BY: _____
James A. Bodenmiller, City Manager

STATE OF OHIO)
COUNTY OF CLARK)

SS:

Before me, a Notary Public in and for the said County and State, personally appeared James A. Bodenmiller, City Manager of The City of Springfield, Ohio, who acknowledged that he signed the foregoing instrument as the fully authorized officer of The City of Springfield, Ohio and that the same is its free act and deed and his free act and deed respectively, as such officer and individually.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Springfield, Ohio this __ day of _____, 2012.

Notary Public

This instrument prepared by The City of Springfield, Ohio.